



2009 SENATE BILL 303

1 **AN ACT** *to renumber and amend* 343.305 (3) (ar); *to amend* 343.305 (4); and
2 *to create* 343.305 (3) (ar) 2. of the statutes; **relating to:** requesting a person
3 who operates a vehicle that is involved in an accident that causes death or
4 injury to submit to a test for intoxication.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 343.305 (3) (ar) of the statutes is renumbered 343.305 (3) (ar) 1. and
6 amended to read:
7 343.305 **(3)** (ar) 1. If a person is the operator of a vehicle that is involved in an
8 accident that causes the death of or great substantial bodily harm, as defined in s.
9 939.22 (38), to any person, and a law enforcement officer detects any presence of
10 alcohol, a controlled substance, a controlled substance analog or other drug, or a

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1 combination thereof, the law enforcement officer may request the operator to provide
2 one or more samples of his or her breath, blood, or urine for the purpose specified
3 under sub. (2). Compliance with a request for one type of sample does not bar a
4 subsequent request for a different type of sample. A person who is unconscious or
5 otherwise not capable of withdrawing consent is presumed not to have withdrawn
6 consent under this paragraph subdivision and one or more samples specified in par.
7 (a) or (am) may be administered to the person. If a person refuses to take a test under
8 this paragraph subdivision, he or she may be arrested under par. (a).

9 **SECTION 2.** 343.305 (3) (ar) 2. of the statutes is created to read:

10 343.305 **(3)** (ar) 2. If a person is the operator of a vehicle that is involved in an
11 accident that causes the death of or great bodily harm to any person and the law
12 enforcement officer has reason to believe that the person violated any state or local
13 traffic law, the officer may request the operator to provide one or more samples of his
14 or her breath, blood, or urine for the purpose specified under sub. (2). Compliance
15 with a request for one type of sample does not bar a subsequent request for a different
16 type of sample. A person who is unconscious or otherwise not capable of withdrawing
17 consent is presumed not to have withdrawn consent under this subdivision and one
18 or more samples specified in par. (a) or (am) may be administered to the person. If
19 a person refuses to take a test under this subdivision, he or she may be arrested
20 under par. (a).

21 **SECTION 3.** 343.305 (4) of the statutes is amended to read:

22 343.305 **(4)** INFORMATION. At the time that a chemical test specimen is
23 requested under sub. (3) (a), (am), or (ar), the law enforcement officer shall read the
24 following to the person from whom the test specimen is requested:

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“You have either been arrested for an offense that involves driving or operating a motor vehicle while under the influence of alcohol or drugs, or both, or you are the operator of a vehicle that was involved in an accident that caused the death of, great bodily harm to, or substantial bodily harm to a person, or you are suspected of driving or being on duty time with respect to a commercial motor vehicle after consuming an intoxicating beverage.

This law enforcement agency now wants to test one or more samples of your breath, blood or urine to determine the concentration of alcohol or drugs in your system. If any test shows more alcohol in your system than the law permits while driving, your operating privilege will be suspended. If you refuse to take any test that this agency requests, your operating privilege will be revoked and you will be subject to other penalties. The test results or the fact that you refused testing can be used against you in court.

If you take all the requested tests, you may choose to take further tests. You may take the alternative test that this law enforcement agency provides free of charge. You also may have a test conducted by a qualified person of your choice at your expense. You, however, will have to make your own arrangements for that test.

If you have a commercial driver license or were operating a commercial motor vehicle, other consequences may result from positive test results or from refusing testing, such as being placed out of service or disqualified.”

(END)